

OB

3-13-81

By: W. Lee

S.B. No. 1093

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Lay midwife" means a person who practices lay midwifery.

(2) "Lay midwifery" means assisting childbirth for compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse-midwife" means a person who is a registered nurse in accordance with the laws of this state and who has received certification from the American College of Nurse-Midwives.

(6) "Natural childbirth trainer" means a person who counsels expectant mothers in the techniques of giving birth without artificial or mechanical assistance, but this definition does not include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to term, of a pregnant woman whose examination reveals no abnormality or expected complications and who does not exhibit signs or symptoms or hemorrhage, toxemia, infection, abnormal fetus position, or abnormal presentation.

(8) "Approved training course" means a lay midwifery

1 training course that satisfies the requirements established by the
2 lay midwifery board and that is approved by the Texas Board of ^{1/2}
3 Health.

4 SECTION 2. EXCEPTIONS. This Act does not apply to a
5 certified nurse-midwife, a natural childbirth trainer, a physician,
6 a health care professional licensed by the state and operating
7 within the scope of his or her license, or a person other than a
8 lay midwife who assists childbirth in an emergency.

9 SECTION 3. LAY MIDWIFERY BOARD. The board shall appoint a
10 lay midwifery board composed of:

11 (1) three lay midwives with at least three years of experience
12 in the practice of lay midwifery;

13 (2) one certified nurse-midwife;

14 (3) two persons licensed to practice medicine who are certified
15 by the American Board of Obstetricians and Gynecologists; and

16 (4) three persons who are not practicing or trained in a
17 health care profession and who represent the public interest.

18 SECTION 4. TERMS. The members of the lay midwifery board
19 hold office for staggered terms of six years, with the terms of
20 three members expiring on January 31 of each odd-numbered year.

21 SECTION 5. OFFICERS; QUORUM; MEETINGS. (a) The lay
22 midwifery board shall elect a chairman from one of the public
23 interest members and a vice-chairman from any of the other members.

24 (b) A majority of the members of the lay midwifery board
25 constitutes a quorum.

26 (c) The lay midwifery board shall meet at least once during
27 the first year of its existence and at other times at the call of

its chairman or the board.

SECTION 6. EXPENSES. Members may not receive compensation for service on the lay midwifery board. Each member is entitled to reimbursement for actual and necessary expenses incurred in performing the duties of the lay midwifery board.

SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The department shall hire an executive secretary, after consultation with the lay midwifery board, to perform administrative duties, including keeping the minutes of lay midwifery board meetings, maintaining records about approved training courses, and maintaining records of persons who have received a letter of completion as described in this Act.

(b) The department shall pay the salaries of the executive secretary and any additional staff it determines necessary. The department shall provide office space and supplies for the executive secretary and other staff.

SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) Subject to the approval of the Texas Board of Health, the lay midwifery board shall:

(1) establish qualifications for the lay midwifery training course instructors;

(2) issue a lay midwifery training manual; and

(3) issue a final examination for a lay midwifery training course.

(b) The board shall review and act on the materials submitted by the lay midwifery board for approval not later than the 60th day after the date on which they are submitted.

SECTION 9. APPLICATION FOR EXAMINATION. An applicant for an examination shall submit to the department an application fee of \$25 and a completed application on a form prescribed by the lay midwifery board.

SECTION 10. TRAINING COURSE. (a) The lay midwifery board shall approve a training course manual for the practice of lay midwifery. The department shall provide the training course manual to any person who requests it. An approved course manual shall include information about:

- (1) normal childbirth;
- (2) symptoms of complications that occur in childbirth;
- (3) anatomy of the human reproduction system;
- (4) sterile techniques and procedures;
- (5) delivery techniques to prevent vaginal lacerations;
- (6) emergency treatment of vaginal lacerations occurring during childbirth;
- (7) legal requirements and procedures for reporting births and deaths;
- (8) silver nitrate treatment of newborn infants' eyes and tests for syphilis and mental retardation as required by law; and
- (9) other information or procedures as determined by the department.

(b) The department may charge a fee of \$50 for a training course it conducts. The department may charge a fee of not more than \$10 for each training course manual it distributes.

(c) The training course shall be taught in Spanish if that is the only language a participant of the course understands. If

1 other course participants do not understand Spanish, the training ^{4/5}
2 course shall be taught in English and Spanish.

3 (d) A regional office of the department shall make the
4 training course available on a temporary basis when the department
5 determines that the number of course offerings in a region is
6 insufficient to satisfy the demand for training by lay midwives in
7 a region. The training course may be offered by a local health
8 department or an accredited postsecondary educational institution
9 or an adult education program. The training course offered by a
10 local health department, educational institution, or adult
11 education program shall comply with the lay midwifery board's
12 requirements. Entities offering the training course shall submit
13 to the department the names of persons taking the course, the
14 course curriculum, and evidence that the instructor's
15 qualifications comply with the department's requirements.

16 SECTION 11. EXAMINATION. (a) The final examination shall
17 be administered by the department at its regional or local offices.

18 (b) The examination shall be administered in English and
19 Spanish and may be offered in written or oral form.

20 SECTION 12. LETTER. The department shall grant a letter of
21 completion to a person who takes an approved training course and
22 passes the final examination.

23 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
24 December of each year, a person who practices lay midwifery shall
25 identify himself or herself on a form provided by the department
26 with the county clerk of the county in which the person resides and
27 with the county clerk of each county in which the person practices

1 lay midwifery.

2 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
3 identify himself or herself as required by Section 13 of this Act,
4 a person shall appear in person before the county clerk of the
5 county in which the person resides and before the county clerk of
6 each county in which the person practices lay midwifery.

7 (b) As part of the identification required by Section 13 of
8 this Act, the person identifying himself or herself as a lay
9 midwife shall complete a form prescribed by the department that
10 contains the following information:

11 (1) name;

12 (2) residence;

13 (3) post office address;

14 (4) date of birth;

15 (5) place of birth; and

16 (6) location of practice according to counties.

17 (c) The form may require other information the department
18 determines necessary for the study of the practice of lay midwifery
19 in the state.

20 (d) A person identifying himself or herself as a lay midwife
21 shall present to the county clerk verification of identity. The
22 method of verification shall be recorded by the county clerk on a
23 form prescribed by the department.

24 (e) The county clerk shall provide each lay midwife who
25 identifies himself or herself a notice of a lay midwife's legal
26 responsibilities under the laws and regulations of this state on a
27 form prescribed by the department. Failure to receive the notice

1 does not constitute a defense to prosecution for acts committed in
2 violation of the laws and regulations of this state.

3 (f) On completion of the required identification form and
4 verification of identity form, the county clerk shall retain for
5 the county clerk's records a copy of each identification form or
6 the portion of the form as designated by the department, and a copy
7 of the identity verification form. The county clerk shall send the
8 original identification form and original verification form to the
9 department. The county clerk may charge a reasonable fee for these
10 services under Article 3930, Revised Civil Statutes of Texas, 1925,
11 as amended.

12 SECTION 15. ROSTER. (a) The department shall maintain a
13 roster of all persons identified to practice lay midwifery.

14 (b) The roster shall contain the information specifically
15 enumerated in Section 14(b) of this Act and other information the
16 department determines necessary to identify with accuracy each lay
17 midwife who is identified and the county or counties in which the
18 lay midwife resides or practices. This information shall be a
19 public record as defined in Chapter 424, Acts of the 63rd
20 Legislature, Regular Session, 1973, as amended (Article 6252-17a,
21 Vernon's Texas Civil Statutes).

22 (c) The roster may contain other information the department
23 determines necessary and appropriate to ascertain the nature and
24 extent of the practice of lay midwifery within this state. The
25 information may only be used by the department to achieve the
26 intent of this Act and may not otherwise be made public so as to
27 disclose the identity of any person to whom such information

1 relates. Such information shall not be available to public
2 inspection under Chapter 424, Acts of the 63rd Legislature, Regular
3 Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil
4 Statutes).

5 SECTION 16. DUTIES OF LAY MIDWIVES. (a) Each lay midwife
6 shall disclose in oral and written form to a prospective client the
7 limitations of the skills and practices of a lay midwife.

8 (b) The department, with the advice of the lay midwifery
9 board, shall prescribe the form of the written disclosure required
10 by this section, which shall include the information that a lay
11 midwife:

12 (1) may assist only in normal childbirth;

13 (2) has or does not have an arrangement with a local
14 physician for referring patients who have complications that occur
15 before or during childbirth;

16 (3) may not administer a prescription drug, perform a
17 Caesarean section, or perform an episiotomy; and

18 (4) has or has not passed a lay midwife training course that
19 complies with the board's requirements.

20 (c) The written disclosure required by this section may not
21 exceed 500 words and shall be in English and Spanish.

22 SECTION 17. PROHIBITIONS. A lay midwife may not:

23 (1) administer a prescription drug to a client except under
24 the supervision of a licensed physician in accordance with the laws
25 of the state;

26 (2) use instruments such as forceps or surgical instruments
27 for any procedure other than cutting the umbilical cord or
28 providing emergency first aid during delivery; 4/

29 (3) remove an adherent placenta;

1 (4) advance or retard labor or delivery by using medicines
2 or mechanical devices;

3 (5) use in connection with his or her name a title,
4 abbreviation, or any designation tending to imply that he or she is
5 a "registered" lay midwife as opposed to one who has identified
6 himself or herself in compliance with this Act; or

7 (6) assist at childbirth that is not a normal childbirth
8 except in emergency situations which pose an immediate threat to
9 the life of the mother or infant.

10 SECTION 18. PENALTIES. (a) A lay midwife commits an offense
11 if the lay midwife intentionally commits any of the act described
12 in Section 17 of this Act.

13 (b) An offense under Subsection (a) of this section is a
14 Class C misdemeanor.

15 (c) A lay midwife who intentionally fails to comply with the
16 disclosure requirement of Section 16 of this Act commits a Class C
17 misdemeanor.

18 (d) A lay midwife who intentionally fails to comply with the
19 identification requirement in Section 13 of this Act commits a
20 Class C misdemeanor.

21 SECTION 19. FUNDS. All fees received by the department
22 under this Act shall be deposited in the state treasury to the
23 credit of the general revenue fund and shall be reappropriated to
24 the Texas Department of Health for the purpose of defraying the
25 costs of this Act.

26 SECTION 20. REPEALER. Section 16, Chapter 41, Acts of the ^{9/10}
27 40th Legislature, 1st Called Session, 1927 (Rule 49a, Article 4477,
28 Vernon's Texas Civil Statutes), is repealed.
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1 SECTION 21. INITIAL APPOINTMENTS. In making the initial
2 appointments to the lay midwifery board, the Texas Board of Health
3 shall designate one lay midwife and one obstetrician and one
4 public interest representative for terms expiring January 31, 1983,
5 the certified nurse-midwife and one lay midwife and one public
6 interest representative for terms expiring January 31, 1985, and
7 one lay midwife and one obstetrician and one public interest
8 representative for terms expiring on January 31, 1987.

9 SECTION 22. EFFECTIVE DATE. This Act takes effect September
10 1, 1981, except that Sections 16(a), 17, and 18 take effect on
11 September 1, 1982.

12 SECTION 23. EMERGENCY. The importance of this legislation
13 and the crowded condition of the calendars in both houses create
14 an emergency and an imperative public necessity that the
15 constitutional rule requiring bills to be read on three several
16 days in each house be suspended, and this rule is hereby suspended.
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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 1, 1981

Honorable Chet Brooks, Chairman
Committee on Human Resources
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 1093
By: Uribe

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Bill No. 1093 (relating to the regulation of lay midwives) to be as follows:

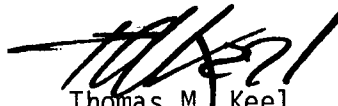
The bill, should it be enacted, would provide for the regulation of lay midwives by the Department of Health. Fees collected would be deposited to the General Revenue Fund and would be reappropriated to the Health Department to carry out the program. The revenue estimate below is based upon 311 persons applying for training and examination.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost To The General Revenue Fund</u>	<u>Probable Gain To The General Revenue Fund</u>	<u>Change In Number Of State Employees From FY 1981</u>
1982	\$234,136	\$ 26,435	+5
1983	194,190	26,435	+5
1984	194,190	26,435	+5
1985	194,190	26,435	+5
1986	194,190	26,435	+5

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Department of Health; LBB Staff: TK, JH, GR: FH

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 17, 1981

Honorable Chet Brooks, Chairman
Committee on Human Resources
Senate Chamber
Austin, Texas

In Re: Committee Substitute for
Senate Bill No. 1093
By: Uribe

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Bill No. 1093 (relating to the regulation of lay midwives) to be as follows:

The bill, should it be enacted as substituted, would provide for the regulation of lay midwives by the Department of Health. Fees collected would be deposited to the General Revenue Fund and would be reappropriated to the Health Department to carry out the program. The revenue estimate below is based upon 311 persons applying for training and examination.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost To The General Revenue Fund</u>	<u>Probable Gain To The General Revenue Fund</u>	<u>Change In Number Of State Employees From FY 1981</u>
1982	\$ 269,865	\$ 26,435	+6
1983	224,498	26,435	+6
1984	224,498	26,435	+6
1985	224,498	26,435	+6
1986	224,498	26,435	+6

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

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Repealing Section 16, Chapter 41, Acts of the 40th
Legislature, 1st Called Session, 1927 (Rule 49a,
Article 4477, Vernon's Texas Civil Statutes).

COMMITTEE SUBSTITUTE FOR S.B. NO. 1093

BY: Uribe

By: Uribe

S.B. No. 1093

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties;

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Lay midwife" means a person who practices lay
midwifery.

(2) "Lay midwifery" means assisting childbirth for
compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse-midwife" means a person who is a
registered nurse in accordance with the laws of this state and who
has received certification from the American College of
Nurse-Midwives.

(6) "Natural childbirth trainer" means a person who counsels
expectant mothers in the techniques of giving birth without
artificial or mechanical assistance, but this definition does not
include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to
term, of a pregnant woman whose examination reveals no abnormality
or expected complications.

(8) "Approved training course" means a lay midwifery
training course that satisfies the requirements established by the
lay midwifery board and that is approved by the Texas Board of
Health.

SECTION 2. EXCEPTIONS. This Act does not apply to a

1 certified nurse-midwife, a natural childbirth trainer, a physician,
2 a health care professional licensed by the state and operating
3 within the scope of his or her license, or a person other than a
4 lay midwife who assists childbirth in an emergency.

5 SECTION 3. LAY MIDWIFERY BOARD. The board shall appoint a
6 lay midwifery board composed of:

7 (1) three lay midwives with at least three years of
8 experience in the practice of lay midwifery, no more than one of
9 whom may be a licensed health care professional;

10 (2) one certified nurse-midwife;

11 (3) one person licensed to practice medicine who is
12 certified by the American Board of Obstetrician^{Surg} and Gynecologist^Y;

13 (4) one person licensed to practice medicine who is
14 certified by the American Board of Pediatrician^{Surg}; and

15 (5) three persons who are not practicing or trained in a
16 health care profession and who represent the public interest.

17 SECTION 4. TERMS. The members of the lay midwifery board
18 hold office for staggered terms of six years, with the terms of
19 three members expiring on January 31 of each odd-numbered year.

20 SECTION 5. OFFICERS; QUORUM; MEETINGS. (a) The lay
21 midwifery board shall elect a chairman from one of the public
22 interest members and a vice-chairman from any of the other members.

23 (b) A majority of the members of the lay midwifery board
24 constitutes a quorum. $\frac{2}{3}$

25 (c) The lay midwifery board shall meet at least once during
26 the first year of its existence and at other times at the call of
27 its chairman or the board.

28 SECTION 6. EXPENSES. Members may not receive compensation

1 for service on the lay midwifery board. Each member is entitled to
2 reimbursement for actual and necessary expenses incurred in
3 performing the duties of the lay midwifery board.

4 SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The department
5 shall hire an executive secretary, after consultation with the lay
6 midwifery board, to perform administrative duties, including
7 keeping the minutes of lay midwifery board meetings, maintaining
8 records about approved training courses, and maintaining records of
9 persons who have received a letter of completion as described in
10 this Act.

11 (b) The department shall pay the salaries of the executive
12 secretary and any additional staff it determines necessary. The
13 department shall provide office space and supplies for the
14 executive secretary and other staff.

15 SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) Subject
16 to the approval of the Texas Board of Health, the lay midwifery
17 board shall:

18 (1) establish qualifications for the lay midwifery training
19 course instructors;

20 (2) issue a lay midwifery training manual; and

21 (3) issue a final examination for a lay midwifery training
22 course.

23 (b) The board shall review and act on the materials^{3/4}
24 submitted by the lay midwifery board for approval not later than
25 the 60th day after the date on which they are submitted.

26 SECTION 9. APPLICATION FOR EXAMINATION. An applicant for an
27 examination shall submit to the department an application fee of
28 \$25 and a completed application on a form prescribed by the lay

1 midwifery board.

2 SECTION 10. TRAINING COURSE. (a) The lay midwifery board
3 shall approve a training course manual for the practice of lay
4 midwifery. The department shall provide the training course manual
5 to any person who requests it. An approved course manual shall
6 include information about:

7 (1) normal childbirth;

8 (2) signs, symptoms, and emergency management of
9 complications that occur in childbirth;

10 (3) anatomy of the human reproduction^{ve} system;

11 (4) sterile techniques and procedures;

12 (5) delivery techniques to prevent vaginal lacerations;

13 (6) emergency management of vaginal lacerations occurring
14 during childbirth;

15 (7) legal requirements and procedures for reporting births
16 and deaths;

17 (8) resuscitation of the newborn;

18 (9) silver nitrate treatment of newborn infants' eyes and
19 tests for syphilis and mental retardation as required by law; and

20 (10) other information or procedures as determined by the
21 department.

22 (b) The department may charge a fee of \$50 for a training^{4/5}
23 course it conducts. The department may charge a fee of not more
24 than \$10 for each training course manual it distributes. The
25 department may waive a portion of these fees charged to an
26 individual.

27 (c) The training course shall be taught in Spanish if that
28 is the only language a participant of the course understands. If

1 other course participants do not understand Spanish, the training
2 course shall be taught in English and Spanish.

3 (d) A regional office of the department shall make the
4 training course available on a temporary basis when the department
5 determines that the number of course offerings in a region is
6 insufficient to satisfy the demand for training by lay midwives in
7 a region. The training course may be offered by a local health
8 department or an accredited postsecondary educational institution
9 or an adult education program. The training course offered by a
10 local health department, educational institution, or adult
11 education program shall comply with the lay midwifery board's
12 requirements. Entities offering the training course shall submit
13 to the department the names of persons taking the course, the
14 course curriculum, and evidence that the instructor's
15 qualifications comply with the department's requirements.

16 SECTION 11. EXAMINATION. (a) The final examination shall
17 be administered by the department at its regional or local offices.

18 (b) The examination shall be administered in English and
19 Spanish and may be offered in written or oral form.

20 SECTION 12. LETTER. The department shall grant a letter of
21 completion to a person who takes an approved training course and
22 passes the final examination. 5/6

23 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
24 December of each year, a person who practices lay midwifery shall
25 identify himself or herself on a form provided by the department
26 with the county clerk of the county in which the person resides and
27 with the county clerk of each county in which the person practices
28 lay midwifery.

1 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
2 identify himself or herself as required by Section 13 of this Act,
3 a person shall appear in person before the county clerk of the
4 county in which the person resides and before the county clerk of
5 each county in which the person practices lay midwifery.

6 (b) As part of the identification required by Section 13 of
7 this Act, the person identifying himself or herself as a lay
8 midwife shall complete a form prescribed by the department that
9 contains the following information:

- 10 (1) name;
11 (2) residence;
12 (3) post office address;
13 (4) date of birth;
14 (5) place of birth; and
15 (6) location of practice according to counties.

16 (c) The form may require other information the department
17 determines necessary for the study of the practice of lay midwifery
18 in the state.

19 (d) A person identifying himself or herself as a lay midwife
20 shall present to the county clerk verification of identity. The ^{6/1}
21 method of verification shall be recorded by the county clerk on a
22 form prescribed by the department.

23 (e) The county clerk shall provide each lay midwife who
24 identifies himself or herself a notice of a lay midwife's legal
25 responsibilities under the laws and regulations of this state on a
26 form prescribed by the department. Failure to receive the notice
27 does not constitute a defense to prosecution for acts committed in
28 violation of the laws and regulations of this state.

(f) On completion of the required identification form and verification of identity form, the county clerk shall retain for the county clerk's records a copy of each identification form or the portion of the form as designated by the department and a copy of the identity verification form. The county clerk shall send the original identification form and original verification form to the department. The county clerk may charge a reasonable fee for these services under Article 3930, Revised Civil Statutes of Texas, 1925, as amended.

SECTION 15. ROSTER. (a) The department shall maintain a roster of all persons identified to practice lay midwifery.

(b) The roster shall contain the information specifically enumerated in Subsection (b) of Section 14 of this Act and other information the department determines necessary to identify with accuracy each lay midwife who is identified and the county or counties in which the lay midwife resides or practices. This information shall be a public record as defined in Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes). Yq

(c) The roster may contain other information the department determines necessary and appropriate to ascertain the nature and extent of the practice of lay midwifery within this state. The information may only be used by the department to achieve the intent of this Act and may not otherwise be made public so as to disclose the identity of any person to whom such information relates. Such information shall not be available to public inspection under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil

1 Statutes).

2 (d) The department shall study the practice of lay midwifery
3 in the state including the quality of lay midwifery services, the
4 efficacy of the training program, and the effect of the
5 prohibitions and disclosure sections. The department shall report
6 the results of its study to the 70th regular session of the
7 legislature and shall make recommendations that the training
8 program either:

9 (1) be continued as enacted;

10 (2) be continued with amendments;

11 (3) be made mandatory; or

12 (4) be discontinued.

13 SECTION 16. DUTIES OF LAY MIDWIVES. (a) Each lay midwife
14 shall disclose in oral and written form to a prospective client the
15 limitations of the skills and practices of a lay midwife.

16 (b) The department, with the advice of the lay midwifery
17 board, shall prescribe the form of the written disclosure required
18 by this section, which shall include the information that a lay ^{8/a}
19 midwife:

20 (1) may assist only in normal childbirth;

21 (2) has or does not have an arrangement with a local
22 physician for referring patients who have complications that occur
23 before or during childbirth;

24 (3) may not administer a prescription drug without a
25 physician's supervision, or perform a Caesarean section; and

26 (4) has or has not passed a lay midwife training course that
27 complies with the board's requirements.

28 (c) The written disclosure required by this section may not

1 exceed 500 words and shall be in English and Spanish.

2 (d) A lay midwife shall have each client sign the written
3 disclosure form and shall cause the signed disclosure form to be
4 forwarded to the department within 30 days of birth.

5 (e) Each lay midwife shall encourage clients to seek
6 prenatal care. Each lay midwife shall encourage a client to seek
7 medical care when the lay midwife recognizes a sign or symptom of a
8 complication to the client's childbirth.

9 SECTION 17. PROHIBITIONS. A lay midwife may not:

10 (1) administer a prescription drug to a client except under
11 the supervision of a licensed physician in accordance with the laws
12 of the state;

13 (2) use surgical instruments or forceps for any procedure
14 other than cutting the umbilical cord or providing emergency first
15 aid during delivery;

16 (3) remove a placenta, provided that a lay midwife may use
17 noninvasive techniques to facilitate the natural expulsion of a ⁹/₁₀
18 placenta;

19 (4) advance or retard labor or delivery by using medicines
20 or mechanical devices;

21 (5) use in connection with his or her name a title,
22 abbreviation, or any designation tending to imply that he or she is
23 a "registered" lay midwife as opposed to one who has identified
24 himself or herself in compliance with this Act; or

25 (6) assist at childbirth that is not a normal childbirth
26 except in emergency situations which pose an immediate threat to
27 the life of the mother or infant.

28 SECTION 18. PENALTIES. (a) A lay midwife commits an

1 offense if the lay midwife intentionally commits any of the acts
2 described in Section 17 of this Act.

3 (b) An offense under Subsection (a) of this section is a
4 Class C misdemeanor.

5 (c) A lay midwife who intentionally fails to comply with the
6 disclosure requirement of Section 16 of this Act commits a Class C
7 misdemeanor.

8 (d) A lay midwife who intentionally fails to comply with the
9 identification requirement in Section 13 of this Act commits a
10 Class C misdemeanor.

11 SECTION 19. EFFECT ON LOCAL ORDINANCES. Nothing in this Act
12 shall prohibit a city from adopting a local ordinance to regulate
13 the practice of lay midwifery within its city limits; provided that
14 the provisions of any such ordinance are at least as strict as the
15 provisions of this Act.

16 SECTION 20. FUNDS. All fees received by the department
17 under this Act shall be deposited in the State Treasury to the
18 credit of the General Revenue Fund and shall be reappropriated to
19 the Texas Department of Health for the purpose of defraying the
20 costs of this Act.

21 SECTION 21. REPEALER. Section 16, Chapter 41, Acts of the
22 40th Legislature, 1st Called Session, 1927 (Rule 49a, Article 4477,
23 Vernon's Texas Civil Statutes), is repealed.

24 SECTION 22. INITIAL APPOINTMENTS. In making the initial
25 appointments to the lay midwifery board, the Texas Board of Health
26 shall designate one lay midwife, the obstetrician, and one public
27 interest representative for terms expiring January 31, 1983, the
28 certified nurse-midwife, one lay midwife, and one public interest

1 representative for terms expiring January 31, 1985, and one lay
2 midwife, the pediatrician, and one public interest representative
3 for terms expiring January 31, 1987.

4 SECTION 23. EFFECTIVE DATE. This Act takes effect September
5 1, 1981, except that Subsection (a) of Section 16 and Sections 17
6 and 18 take effect on September 1, 1982.

7 SECTION 24. EMERGENCY. The importance of this legislation
8 and the crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended.

May 7 1981 Engrossed
Latsy Spaw
Engrossing Clerk

I certify that the attached is a true and correct
copy of SB 1093, which was
received from the Senate on MAY 8 1981 and
referred to the Committee on Health Services
Betty Murray
Chief Clerk of the House

By: Uribe
(Wilson)

S.B. No. 1093

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties;
repealing Section 16, Chapter 41, Acts of the 40th Legislature, 1st
Called Session, 1927 (Rule 49a, Article 4477, Vernon's Texas Civil
Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Lay midwife" means a person who practices lay
midwifery.

(2) "Lay midwifery" means assisting childbirth for
compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse-midwife" means a person who is a
registered nurse in accordance with the laws of this state and who
has received certification from the American College of
Nurse-Midwives.

(6) "Natural childbirth trainer" means a person who counsels
expectant mothers in the techniques of giving birth without
artificial or mechanical assistance, but this definition does not
include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to
term, of a pregnant woman whose examination reveals no abnormality
or expected complications.

(8) "Approved training course" means a lay midwifery
training course that satisfies the requirements established by the

1 lay midwifery board and that is approved by the Texas Board of
2 Health.

3 SECTION 2. EXCEPTIONS. This Act does not apply to a
4 certified nurse-midwife, a natural childbirth trainer, a physician,
5 a health care professional licensed by the state and operating
6 within the scope of his or her license, or a person other than a
7 lay midwife who assists childbirth in an emergency.

8 SECTION 3. LAY MIDWIFERY BOARD. The board shall appoint a
9 lay midwifery board composed of:

10 (1) three lay midwives with at least three years of
11 experience in the practice of lay midwifery, no more than one of
12 whom may be a licensed health care professional;

13 (2) one certified nurse-midwife;

14 (3) one person licensed to practice medicine who is
15 certified by the American Board of Obstetrics and Gynecology;

16 (4) one person licensed to practice medicine who is
17 certified by the American Board of Pediatrics; and

18 (5) three persons who are not practicing or trained in a
19 health care profession and who represent the public interest.

20 SECTION 4. TERMS. The members of the lay midwifery board
21 hold office for staggered terms of six years, with the terms of
22 three members expiring on January 31 of each odd-numbered year.

23 SECTION 5. OFFICERS; QUORUM; MEETINGS. (a) The lay
24 midwifery board shall elect a chairman from one of the public
25 interest members and a vice-chairman from any of the other members.

26 (b) A majority of the members of the lay midwifery board
27 constitutes a quorum.

(c) The lay midwifery board shall meet at least once during the first year of its existence and at other times at the call of its chairman or the board.

SECTION 6. EXPENSES. Members may not receive compensation for service on the lay midwifery board. Each member is entitled to reimbursement for actual and necessary expenses incurred in performing the duties of the lay midwifery board.

SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The department shall hire an executive secretary, after consultation with the lay midwifery board, to perform administrative duties, including keeping the minutes of lay midwifery board meetings, maintaining records about approved training courses, and maintaining records of persons who have received a letter of completion as described in this Act.

(b) The department shall pay the salaries of the executive secretary and any additional staff it determines necessary. The department shall provide office space and supplies for the executive secretary and other staff.

SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) Subject to the approval of the Texas Board of Health, the lay midwifery board shall:

(1) establish qualifications for the lay midwifery training course instructors;

(2) issue a lay midwifery training manual; and

(3) issue a final examination for a lay midwifery training course.

(b) The board shall review and act on the materials

submitted by the lay midwifery board for approval not later than the 60th day after the date on which they are submitted.

SECTION 9. APPLICATION FOR EXAMINATION. An applicant for an examination shall submit to the department an application fee of \$25 and a completed application on a form prescribed by the lay midwifery board.

SECTION 10. TRAINING COURSE. (a) The lay midwifery board shall approve a training course manual for the practice of lay midwifery. The department shall provide the training course manual to any person who requests it. An approved course manual shall include information about:

- (1) normal childbirth;
- (2) signs, symptoms, and emergency management of complications that occur in childbirth;
- (3) anatomy of the human reproductive system;
- (4) sterile techniques and procedures;
- (5) delivery techniques to prevent vaginal lacerations;
- (6) emergency management of vaginal lacerations occurring during childbirth;
- (7) legal requirements and procedures for reporting births and deaths;
- (8) resuscitation of the newborn;
- (9) silver nitrate treatment of newborn infants' eyes and tests for syphilis and mental retardation as required by law; and
- (10) other information or procedures as determined by the department.

(b) The department may charge a fee of \$50 for a training

1 course it conducts. The department may charge a fee of not more
2 than \$10 for each training course manual it distributes. The
3 department may waive a portion of these fees charged to an
4 individual.

5 (c) The training course shall be taught in Spanish if that
6 is the only language a participant of the course understands. If
7 other course participants do not understand Spanish, the training
8 course shall be taught in English and Spanish.

9 (d) A regional office of the department shall make the
10 training course available on a temporary basis when the department
11 determines that the number of course offerings in a region is
12 insufficient to satisfy the demand for training by lay midwives in
13 a region. The training course may be offered by a local health
14 department or an accredited postsecondary educational institution
15 or an adult education program. The training course offered by a
16 local health department, educational institution, or adult
17 education program shall comply with the lay midwifery board's
18 requirements. Entities offering the training course shall submit
19 to the department the names of persons taking the course, the
20 course curriculum, and evidence that the instructor's
21 qualifications comply with the department's requirements.

22 SECTION 11. EXAMINATION. (a) The final examination shall
23 be administered by the department at its regional or local offices.

24 (b) The examination shall be administered in English and
25 Spanish and may be offered in written or oral form.

26 SECTION 12. LETTER. The department shall grant a letter of
27 completion to a person who takes an approved training course and

1 passes the final examination.

2 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
3 December of each year, a person who practices lay midwifery shall
4 identify himself or herself on a form provided by the department
5 with the county clerk of the county in which the person resides and
6 with the county clerk of each county in which the person practices
7 lay midwifery.

8 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
9 identify himself or herself as required by Section 13 of this Act,
10 a person shall appear in person before the county clerk of the
11 county in which the person resides and before the county clerk of
12 each county in which the person practices lay midwifery.

13 (b) As part of the identification required by Section 13 of
14 this Act, the person identifying himself or herself as a lay
15 midwife shall complete a form prescribed by the department that
16 contains the following information:

17 (1) name;

18 (2) residence;

19 (3) post office address;

20 (4) date of birth;

21 (5) place of birth; and

22 (6) location of practice according to counties.

23 (c) The form may require other information the department
24 determines necessary for the study of the practice of lay midwifery
25 in the state.

26 (d) A person identifying himself or herself as a lay midwife
27 shall present to the county clerk verification of identity. The

1 method of verification shall be recorded by the county clerk on a
2 form prescribed by the department.

3 (e) The county clerk shall provide each lay midwife who
4 identifies himself or herself a notice of a lay midwife's legal
5 responsibilities under the laws and regulations of this state on a
6 form prescribed by the department. Failure to receive the notice
7 does not constitute a defense to prosecution for acts committed in
8 violation of the laws and regulations of this state.

9 (f) On completion of the required identification form and
10 verification of identity form, the county clerk shall retain for
11 the county clerk's records a copy of each identification form or
12 the portion of the form as designated by the department and a copy
13 of the identity verification form. The county clerk shall send the
14 original identification form and original verification form to the
15 department. The county clerk may charge a reasonable fee for these
16 services under Article 3930, Revised Civil Statutes of Texas, 1925,
17 as amended.

18 SECTION 15. ROSTER. (a) The department shall maintain a
19 roster of all persons identified to practice lay midwifery.

20 (b) The roster shall contain the information specifically
21 enumerated in Subsection (b) of Section 14 of this Act and other
22 information the department determines necessary to identify with
23 accuracy each lay midwife who is identified and the county or
24 counties in which the lay midwife resides or practices. This
25 information shall be a public record as defined in Chapter 424,
26 Acts of the 63rd Legislature, Regular Session, 1973, as amended
27 (Article 6252-17a, Vernon's Texas Civil Statutes).

(c) The roster may contain other information the department determines necessary and appropriate to ascertain the nature and extent of the practice of lay midwifery within this state. The information may only be used by the department to achieve the intent of this Act and may not otherwise be made public so as to disclose the identity of any person to whom such information relates. Such information shall not be available to public inspection under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

(d) The department shall study the practice of lay midwifery in the state including the quality of lay midwifery services, the efficacy of the training program, and the effect of the prohibitions and disclosure sections. The department shall report the results of its study to the 70th regular session of the legislature and shall make recommendations that the training program either:

- (1) be continued as enacted;
- (2) be continued with amendments;
- (3) be made mandatory; or
- (4) be discontinued.

SECTION 16. DUTIES OF LAY MIDWIVES. (a) Each lay midwife shall disclose in oral and written form to a prospective client the limitations of the skills and practices of a lay midwife.

(b) The department, with the advice of the lay midwifery board, shall prescribe the form of the written disclosure required by this section, which shall include the information that a lay

1 midwife:

2 (1) may assist only in normal childbirth;

3 (2) has or does not have an arrangement with a local
4 physician for referring patients who have complications that occur
5 before or during childbirth;

6 (3) may not administer a prescription drug without a
7 physician's supervision, or perform a Caesarean section; and

8 (4) has or has not passed a lay midwife training course that
9 complies with the board's requirements.

10 (c) The written disclosure required by this section may not
11 exceed 500 words and shall be in English and Spanish.

12 (d) A lay midwife shall have each client sign the written
13 disclosure form and shall cause the signed disclosure form to be
14 forwarded to the department within 30 days of birth.

15 (e) Each lay midwife shall encourage clients to seek
16 prenatal care. Each lay midwife shall encourage a client to seek
17 medical care when the lay midwife recognizes a sign or symptom of a
18 complication to the client's childbirth.

19 SECTION 17. PROHIBITIONS. A lay midwife may not:

20 (1) administer a prescription drug to a client except under
21 the supervision of a licensed physician in accordance with the laws
22 of the state;

23 (2) use surgical instruments or forceps for any procedure
24 other than cutting the umbilical cord or providing emergency first
25 aid during delivery;

26 (3) remove a placenta, provided that a lay midwife may use
27 noninvasive techniques to facilitate the natural expulsion of a

1 placenta;

2 (4) advance or retard labor or delivery by using medicines
3 or mechanical devices;

4 (5) use in connection with his or her name a title,
5 abbreviation, or any designation tending to imply that he or she is
6 a "registered" lay midwife as opposed to one who has identified
7 himself or herself in compliance with this Act; or

8 (6) assist at childbirth that is not a normal childbirth
9 except in emergency situations which pose an immediate threat to
10 the life of the mother or infant.

11 SECTION 18. PENALTIES. (a) A lay midwife commits an
12 offense if the lay midwife intentionally commits any of the acts
13 described in Section 17 of this Act.

14 (b) An offense under Subsection (a) of this section is a
15 Class C misdemeanor.

16 (c) A lay midwife who intentionally fails to comply with the
17 disclosure requirement of Section 16 of this Act commits a Class C
18 misdemeanor.

19 (d) A lay midwife who intentionally fails to comply with the
20 identification requirement in Section 13 of this Act commits a
21 Class C misdemeanor.

22 SECTION 19. EFFECT ON LOCAL ORDINANCES. Nothing in this Act
23 shall prohibit a city from adopting a local ordinance to regulate
24 the practice of lay midwifery within its city limits; provided that
25 the provisions of any such ordinance are at least as strict as the
26 provisions of this Act.

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1 under this Act shall be deposited in the State Treasury to the
2 credit of the General Revenue Fund and shall be reappropriated to
3 the Texas Department of Health for the purpose of defraying the
4 costs of this Act.

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6 40th Legislature, 1st Called Session, 1927 (Rule 49a, Article 4477,
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9 appointments to the lay midwifery board, the Texas Board of Health
10 shall designate one lay midwife, the obstetrician, and one public
11 interest representative for terms expiring January 31, 1983, the
12 certified nurse-midwife, one lay midwife, and one public interest
13 representative for terms expiring January 31, 1985, and one lay
14 midwife, the pediatrician, and one public interest representative
15 for terms expiring January 31, 1987.

16 SECTION 23. EFFECTIVE DATE. This Act takes effect September
17 1, 1981, except that Subsection (a) of Section 16 and Sections 17
18 and 18 take effect on September 1, 1982.

19 SECTION 24. EMERGENCY. The importance of this legislation
20 and the crowded condition of the calendars in both houses create an
21 emergency and an imperative public necessity that the
22 constitutional rule requiring bills to be read on three several
23 days in each house be suspended, and this rule is hereby suspended.

F

HOUSE COMMITTEE REPORT

1ST PRINTING

By: Uribe
(Wilson)

S.B. No. 1093

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties; repealing Section 16, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rule 49a, Article 4477, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Lay midwife" means a person who practices lay midwifery.

(2) "Lay midwifery" means assisting childbirth for compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse-midwife" means a person who is a registered nurse in accordance with the laws of this state and who has received certification from the American College of Nurse-Midwives.

(6) "Natural childbirth trainer" means a person who counsels expectant mothers in the techniques of giving birth without artificial or mechanical assistance, but this definition does not include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to term, of a pregnant woman whose examination reveals no abnormality or expected complications.

(8) "Approved training course" means a lay midwifery training course that satisfies the requirements established by the

1 lay midwifery board and that is approved by the Texas Board of
2 Health.

3 SECTION 2. EXCEPTIONS. This Act does not apply to a
4 certified nurse-midwife, a natural childbirth trainer, a physician,
5 a health care professional licensed by the state and operating
6 within the scope of his or her license, or a person other than a
7 lay midwife who assists childbirth in an emergency.

8 SECTION 3. LAY MIDWIFERY BOARD. The board shall appoint a
9 lay midwifery board composed of:

10 (1) three lay midwives with at least three years of
11 experience in the practice of lay midwifery, no more than one of
12 whom may be a licensed health care professional;

13 (2) one certified nurse-midwife;

14 (3) one person licensed to practice medicine who is
15 certified by the American Board of Obstetrics and Gynecology;

16 (4) one person licensed to practice medicine who is
17 certified by the American Board of Pediatrics; and

18 (5) three persons who are not practicing or trained in a
19 health care profession and who represent the public interest.

20 SECTION 4. TERMS. The members of the lay midwifery board
21 hold office for staggered terms of six years, with the terms of
22 three members expiring on January 31 of each odd-numbered year.

23 SECTION 5. OFFICERS; QUORUM; MEETINGS. (a) The lay
24 midwifery board shall elect a chairman from one of the public
25 interest members and a vice-chairman from any of the other members.

26 (b) A majority of the members of the lay midwifery board
27 constitutes a quorum.

(c) The lay midwifery board shall meet at least once during the first year of its existence and at other times at the call of its chairman or the board.

SECTION 6. EXPENSES. Members may not receive compensation for service on the lay midwifery board. Each member is entitled to reimbursement for actual and necessary expenses incurred in performing the duties of the lay midwifery board.

SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The department shall hire an executive secretary, after consultation with the lay midwifery board, to perform administrative duties, including keeping the minutes of lay midwifery board meetings, maintaining records about approved training courses, and maintaining records of persons who have received a letter of completion as described in this Act.

(b) The department shall pay the salaries of the executive secretary and any additional staff it determines necessary. The department shall provide office space and supplies for the executive secretary and other staff.

SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) Subject to the approval of the Texas Board of Health, the lay midwifery board shall:

(1) establish qualifications for the lay midwifery training course instructors;

(2) issue a lay midwifery training manual; and

(3) issue a final examination for a lay midwifery training course.

(b) The board shall review and act on the materials

submitted by the lay midwifery board for approval not later than the 60th day after the date on which they are submitted.

SECTION 9. APPLICATION FOR EXAMINATION. An applicant for an examination shall submit to the department an application fee of \$25 and a completed application on a form prescribed by the lay midwifery board.

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- (1) normal childbirth;
- (2) signs, symptoms, and emergency management of complications that occur in childbirth;
- (3) anatomy of the human reproductive system;
- (4) sterile techniques and procedures;
- (5) delivery techniques to prevent vaginal lacerations;
- (6) emergency management of vaginal lacerations occurring during childbirth;
- (7) legal requirements and procedures for reporting births and deaths;
- (8) resuscitation of the newborn;
- (9) silver nitrate treatment of newborn infants' eyes and tests for syphilis and mental retardation as required by law; and
- (10) other information or procedures as determined by the department.

(b) The department may charge a fee of \$50 for a training

1 course it conducts. The department may charge a fee of not more
2 than \$10 for each training course manual it distributes. The
3 department may waive a portion of these fees charged to an
4 individual.

5 (c) The training course shall be taught in Spanish if that
6 is the only language a participant of the course understands. If
7 other course participants do not understand Spanish, the training
8 course shall be taught in English and Spanish.

9 (d) A regional office of the department shall make the
10 training course available on a temporary basis when the department
11 determines that the number of course offerings in a region is
12 insufficient to satisfy the demand for training by lay midwives in
13 a region. The training course may be offered by a local health
14 department or an accredited postsecondary educational institution
15 or an adult education program. The training course offered by a
16 local health department, educational institution, or adult
17 education program shall comply with the lay midwifery board's
18 requirements. Entities offering the training course shall submit
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20 course curriculum, and evidence that the instructor's
21 qualifications comply with the department's requirements.

22 SECTION 11. EXAMINATION. (a) The final examination shall
23 be administered by the department at its regional or local offices.

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25 Spanish and may be offered in written or oral form.

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27 completion to a person who takes an approved training course and

1 passes the final examination.

2 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
3 December of each year, a person who practices lay midwifery shall
4 identify himself or herself on a form provided by the department
5 with the county clerk of the county in which the person resides and
6 with the county clerk of each county in which the person practices
7 lay midwifery.

8 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
9 identify himself or herself as required by Section 13 of this Act,
10 a person shall appear in person before the county clerk of the
11 county in which the person resides and before the county clerk of
12 each county in which the person practices lay midwifery.

13 (b) As part of the identification required by Section 13 of
14 this Act, the person identifying himself or herself as a lay
15 midwife shall complete a form prescribed by the department that
16 contains the following information:

- 17 (1) name;
18 (2) residence;
19 (3) post office address;
20 (4) date of birth;
21 (5) place of birth; and
22 (6) location of practice according to counties.

23 (c) The form may require other information the department
24 determines necessary for the study of the practice of lay midwifery
25 in the state.

26 (d) A person identifying himself or herself as a lay midwife
27 shall present to the county clerk verification of identity. The

method of verification shall be recorded by the county clerk on a form prescribed by the department.

(e) The county clerk shall provide each lay midwife who identifies himself or herself a notice of a lay midwife's legal responsibilities under the laws and regulations of this state on a form prescribed by the department. Failure to receive the notice does not constitute a defense to prosecution for acts committed in violation of the laws and regulations of this state.

(f) On completion of the required identification form and verification of identity form, the county clerk shall retain for the county clerk's records a copy of each identification form or the portion of the form as designated by the department and a copy of the identity verification form. The county clerk shall send the original identification form and original verification form to the department. The county clerk may charge a reasonable fee for these services under Article 3930, Revised Civil Statutes of Texas, 1925, as amended.

SECTION 15. ROSTER. (a) The department shall maintain a roster of all persons identified to practice lay midwifery.

(b) The roster shall contain the information specifically enumerated in Subsection (b) of Section 14 of this Act and other information the department determines necessary to identify with accuracy each lay midwife who is identified and the county or counties in which the lay midwife resides or practices. This information shall be a public record as defined in Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

(c) The roster may contain other information the department determines necessary and appropriate to ascertain the nature and extent of the practice of lay midwifery within this state. The information may only be used by the department to achieve the intent of this Act and may not otherwise be made public so as to disclose the identity of any person to whom such information relates. Such information shall not be available to public inspection under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

(d) The department shall study the practice of lay midwifery in the state including the quality of lay midwifery services, the efficacy of the training program, and the effect of the prohibitions and disclosure sections. The department shall report the results of its study to the 70th regular session of the legislature and shall make recommendations that the training program either:

- (1) be continued as enacted;
- (2) be continued with amendments;
- (3) be made mandatory; or
- (4) be discontinued.

SECTION 16. DUTIES OF LAY MIDWIVES. (a) Each lay midwife shall disclose in oral and written form to a prospective client the limitations of the skills and practices of a lay midwife.

(b) The department, with the advice of the lay midwifery board, shall prescribe the form of the written disclosure required by this section, which shall include the information that a lay

midwife:

(1) may assist only in normal childbirth;

(2) has or does not have an arrangement with a local physician for referring patients who have complications that occur before or during childbirth;

(3) may not administer a prescription drug without a physician's supervision, or perform a Caesarean section; and

(4) has or has not passed a lay midwife training course that complies with the board's requirements.

(c) The written disclosure required by this section may not exceed 500 words and shall be in English and Spanish.

(d) A lay midwife shall have each client sign the written disclosure form and shall cause the signed disclosure form to be forwarded to the department within 30 days of birth.

(e) Each lay midwife shall encourage clients to seek prenatal care. Each lay midwife shall encourage a client to seek medical care when the lay midwife recognizes a sign or symptom of a complication to the client's childbirth.

SECTION 17. PROHIBITIONS. A lay midwife may not:

(1) administer a prescription drug to a client except under the supervision of a licensed physician in accordance with the laws of the state;

(2) use surgical instruments or forceps for any procedure other than cutting the umbilical cord or providing emergency first aid during delivery;

(3) remove a placenta, provided that a lay midwife may use noninvasive techniques to facilitate the natural expulsion of a

1 placenta;

2 (4) advance or retard labor or delivery by using medicines
3 or mechanical devices;

4 (5) use in connection with his or her name a title,
5 abbreviation, or any designation tending to imply that he or she is
6 a "registered" lay midwife as opposed to one who has identified
7 himself or herself in compliance with this Act; or

8 (6) assist at childbirth that is not a normal childbirth
9 except in emergency situations which pose an immediate threat to
10 the life of the mother or infant.

11 SECTION 18. PENALTIES. (a) A lay midwife commits an
12 offense if the lay midwife intentionally commits any of the acts
13 described in Section 17 of this Act.

14 (b) An offense under Subsection (a) of this section is a
15 Class C misdemeanor.

16 (c) A lay midwife who intentionally fails to comply with the
17 disclosure requirement of Section 16 of this Act commits a Class C
18 misdemeanor.

19 (d) A lay midwife who intentionally fails to comply with the
20 identification requirement in Section 13 of this Act commits a
21 Class C misdemeanor.

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23 shall prohibit a city from adopting a local ordinance to regulate
24 the practice of lay midwifery within its city limits; provided that
25 the provisions of any such ordinance are at least as strict as the
26 provisions of this Act.

27 SECTION 20. FUNDS. All fees received by the department

under this Act shall be deposited in the State Treasury to the credit of the General Revenue Fund and shall be reappropriated to the Texas Department of Health for the purpose of defraying the costs of this Act.

SECTION 21. REPEALER. Section 16, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rule 49a, Article 4477, Vernon's Texas Civil Statutes), is repealed.

SECTION 22. INITIAL APPOINTMENTS. In making the initial appointments to the lay midwifery board, the Texas Board of Health shall designate one lay midwife, the obstetrician, and one public interest representative for terms expiring January 31, 1983, the certified nurse-midwife, one lay midwife, and one public interest representative for terms expiring January 31, 1985, and one lay midwife, the pediatrician, and one public interest representative for terms expiring January 31, 1987.

SECTION 23. EFFECTIVE DATE. This Act takes effect September 1, 1981, except that Subsection (a) of Section 16 and Sections 17 and 18 take effect on September 1, 1982.


SECTION 24. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Honorable Bill Clayton
Speaker of the House of Representatives


(date)

We, your COMMITTEE ON HEALTH SERVICES, to whom was referred S. 15, 1093, have had the same under consideration and beg to report back with the recommendation that it (measure)

- Total
- | | |
|----------|---------------------|
| <u>6</u> | aye |
| <u>0</u> | nay |
| <u>0</u> | present, not voting |
| <u>3</u> | absent |



CHAIRMAN



COMMITTEE COORDINATOR

S. B. 1093

COMMITTEE ON

BY: URIBE

HEALTH SERVICES

BILL ANALYSIS

BACKGROUND INFORMATION:

THIS BILL RELATES TO THE REGULATION OF LAY MIDWIVES AND PROVIDES PENALTIES.

PURPOSE:

TO REPEAL SECTION 16, CHAPTER 41, ACTS OF THE 40th LEGISLATURE, 1927, (RULE 49a, ART 4477, V.T.C.S.). THIS ACT CREATES A MIDWIFERY BOARD WHICH SHALL ESTABLISH QUALIFICATIONS FOR MIDWIFERY TRAINING AND COURSE INSTRUCTORS.

SECTION BY SECTION ANALYSIS:

- SECTION 1: STATES DEFINITIONS OF TERMS AND PHRASES AS USED THROUGHOUT THIS ACT.
- SECTION 2: STATES EXCEPTIONS IN THIS ACT TO WHICH THIS ACT DOES NOT APPLY.
- SECTION 3: STATES THAT THE TEXAS BOARD OF HEALTH SHALL APPOINT A LAY MIDWIFERY BOARD COMPOSED OF CERTAIN MEMBERS AS STATED IN THIS SECTION.
- SECTION 4: STATES DETAILS CONCERNING THE LENGTH OF TERMS OF MEMBERS ON THE LAY MIDWIFERY BOARD.
- SECTION 5: STATES THAT THE LAY MIDWIFERY BOARD SHALL ELECT A CHAIRMAN AND THAT A MAJORITY OF THE MEMBERS OF THIS BOARD COMPOSES A QUORUM.
- SECTION 6: STATES THAT MEMBERS OF THE LAY MIDWIFERY BOARD SHALL RECEIVE NO COMPENSATION BUT SHALL BE REIMBURSED FOR EXPENSES INCURRED.
- SECTION 7: STATES THAT THE DEPARTMENT OF HEALTH SHALL HIRE AN EXECUTIVE SECRETARY TO PERFORM ADMINISTRATIVE DUTIES AND THAT THE DEPARTMENT SHALL PAY THE SALARIES OF THE SECRETARY AND CARRY ADDITIONAL STAFF IF DEEMED NECESSARY.
- SECTION 8: STATES DUTIES OF MIDWIFERY BOARD WHICH INCLUDE ESTABLISHING QUALIFICATIONS FOR LAY MIDWIFERY TRAINING AND COURSE INSTRUCTORS.
- SECTION 9: STATES THAT AN APPLICANT FOR AN EXAMINATION SHALL SUBMIT TO THE DEPARTMENT A FEE OF \$.25.00.
- SECTION 10: THIS SECTION DEALS WITH A TRAINING COURSE FOR THE PRACTICE OF LAY MIDWIFERY AND STATES THAT THE DEPARTMENT SHALL PROVIDE A TRAINING COURSE MANUAL TO ANY PERSON WHO REQUESTS IT.
- SECTION 11: DEALS WITH EXAMINATIONS AND STATES THAT THEY WILL BE ADMINISTERED BY THE TEXAS DEPARTMENT OF HEALTH IN WRITTEN OR ORAL FORM.

S. B. 1093

BY URIBE

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COMMITTEE ON

HEALTH SERVICES

BILL ANALYSIS CONTINUED

- SECTION 12: STATES THAT THE DEPARTMENT SHALL GRANT A LETTER OF COMPLETION TO THOSE WHO TAKE THE APPROVED TRAINING COURSE AND PASS THE FINAL EXAMINATION.
- SECTION 13: STATES THAT A PERSON WHO PRACTICES LAY MIDWIFERY SHALL IDENTIFY HIM/HERSELF ON A FORM PROVIDED BY THE TEXAS DEPARTMENT OF HEALTH IN DECEMBER OF EACH YEAR.
- SECTION 14: THIS SECTION DEALS WITH A PERSON IDENTIFYING HIM/HERSELF AS A PERSON WHO PRACTICES LAY MIDWIFERY BEFORE THE COUNTY CLERK OF THE COUNTY IN WHICH THIS PERSON RESIDES. STATES INFORMATION THAT SHALL BE SUPPLIED.
- SECTION 15: STATES THAT THE TEXAS DEPARTMENT OF HEALTH SHALL MAINTAIN A ROSTER OF ALL INDIVIDUALS WHO PRACTICE MIDWIFERY AND THIS SECTION STATES THE SPECIFIC DETAILS PERTAINING TO THIS ROSTER.
- SECTION 16: STATES DETAILS CONCERNING DUTIES OF LAY MIDWIVES AND STATES THAT LAY MIDWIVES SHALL DISCLOSE IN ORAL AND WRITTEN FORM TO HIS/HER PROSPECTIVE CLIENT THE LIMITATIONS AND SKILLS OF HIS/HER PRACTICE.
- SECTION 17: STATES WHAT A MIDWIFE MAY NOT DO (PROHIBITED ACTS).
- SECTION 18: STATES OFFENSES UNDER THIS ACT AS BEING A CLASS C MISDEMEANOR.
- SECTION 19: STATES THAT NOTHING IN THIS ACT ATTEMPTS TO REGULATE THE PRACTICE OF MIDWIFERY WITHIN THE REALM OF LOCAL ORDINANCES.
- SECTION 20: DEALS WITH FEES AND STATES THAT ALL FEES COLLECTED UNDER THIS ACT SHALL BE CREDITED TO THE GENERAL REVENUE FUND AND SHALL BE REAPPROPRIATED TO THE TEXAS DEPARTMENT OF HEALTH.
- SECTION 21: THIS SECTION REPEALS SECTION 16, CHAPTER 41, ACTS OF THE 40th LEGISLATURE, 1927, (RULE 49a, ART. 4477, V.T.C.S.).
- SECTION 22: DEALS WITH INITIAL APPOINTMENTS TO THE MIDWIFERY BOARD AND STATES THE LENGTHS OF THEIR TERMS.
- SECTION 23: STATES EFFECTIVE DATE OF THIS ACT.
- SECTION 24: EMERGENCY CLAUSE.

RULEMAKING AUTHORITY:

IT IS THE OPINION OF THE COMMITTEE THAT RULEMAKING AUTHORITY IS INDIRECTLY DELEGATED TO THE TEXAS DEPARTMENT OF HEALTH IN THIS ACT.

SUMMARY OF COMMITTEE ACTION:

PUBLIC NOTICE WAS POSTED IN ACCORDANCE WITH RULE 3.084, RULES OF PROCEDURE OF THE HOUSE OF REPRESENTATIVES AND A PUBLIC NOTICE WAS HELD ON MAY 20, 1981.

REPRESENTATIVE RON WILSON BROUGHT S.B. 1093 BEFORE THE COMMITTEE.

ON MAY 20, 1981, THE COMMITTEE, IN A PUBLIC HEARING, VOTED TO REPORT S.B. 791 TO THE FLOOR AND TO RECOMMEND THAT IT DO PASS BY A VOTE OF SIX (6) AYES, ZERO (0) NAYES, ZERO (0) PRESENT NOT VOTING, AND THREE (3) ABSENT.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 14, 1981

Honorable Ron Wilson, Chairman
Committee on Health Services
House of Representatives
Austin, Texas

In Re: Senate Bill No. 1093,
as engrossed
By: Uribe

Sir:

In response to your request pursuant to House Rules, Section 3.119, this office finds the fiscal implications of Senate Bill No. 1093, as engrossed (relating to the regulation of lay midwives), to be as follows:


The bill, should it be enacted, would provide for the regulation of lay midwives by the Department of Health. Fees collected would be deposited to the General Revenue Fund and would be reappropriated to the Health Department to carry out the program. The revenue estimate below is based upon 311 persons applying for training and examination.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost to the General Revenue Fund</u>	<u>Probable Gain to the General Revenue Fund</u>	<u>Change in Number Of State Employees from FY 1981</u>
1982	\$ 269,865	\$ 26,435	+6
1983	224,498	26,435	+6
1984	224,498	26,435	+6
1985	224,498	26,435	+6
1986	224,498	26,435	+6

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Department of Health; LBB Staff: TK, JH, GR, LV

relating to the regulation of lay midwives; providing penalties.

3-13-81 Filed with the Secretary of the Senate
MAR 16 1981 Read, referred to Committee on HUMAN RESOURCES

Reported favorably.

PR 14 1981 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

MAY 7 1981 Senate and Constitutional Rules to permit consideration suspended by
(unanimous consent.)
_____ yeas, _____ nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAY 7 1981 Read second time and { ordered engrossed.
passed to third reading.

MAY 7 1981 Caption ordered amended to conform to body of bill.

Senate and Constitutional 3-Day Rules suspended by vote of
28 yeas, 0 nays to place bill on third reading and final passage.

MAY 7 1981 Read third time and passed by { viva voce vote. viva voce vote
_____ yeas, _____ nays.

OTHER ACTION:

Betty King

May 7, 1981 Engrossed

May 8 1981 *Patsy Law*
ENGROSSING CLERK

MAY 8 1981 Received from the Senate

MAY 11 1981 Read first time and referred to Committee on Health Services

MAY 20 1981 Reported favorably amended, sent to Printer at 5:15 p.m.

MAY 21 1981 Printed and Distributed 11:46 a.m. MAY 20 1981

MAY 21 1981 Sent to Committee on Calendars 12:05 p.m.

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays

_____ Present, not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas _____ nays _____ present not voting.

Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of _____ yeas _____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

Chief Clerk of the House